

# STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

1560 Broadway, Suite 850

Denver, Colorado 80202



## Amended Regulation 1-2-9

### Fees Charged By Producers

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#### Section 1 Authority

This regulation is promulgated under the authority of §10-1-109, C.R.S.

#### Section 2 Basis and Purpose

The purpose of this regulation is to implement rules which prohibit producers from charging insurance applicants and policyholders certain fees for which they are already compensated through commissions and to clarify which fees may be charged.

#### Section 3 Rules

##### A. Fees Prohibited

Agreements between the insurer and insurance producers include a commission schedule which lists the producer's compensation for soliciting and acquiring insurance business. Insurers subsequently include these commissions and/or other acquisition expenses in their comprehensive rate filings and must justify these expenses to the Commissioner of Insurance. If insurance producers charge a separate fee in addition to those included as commissions in the insurers' rate filings, then premiums charged to the policyholders could be considered excessive.

Therefore, insurance producers are prohibited from charging separate fees in addition to those contemplated in the rate filing and included in their commissions for the solicitation and procurement of insurance products and for servicing existing insurance policyholders. These services may include, but are not limited to: inspections; quoting premiums; issuing policies; signing policies; examining and mailing policies, applications and daily reports; compiling figures for accounts current and mailing billing notices; correspondence and other bookkeeping

and clerical work; issuing certificates of insurance and endorsements; issuing proof of insurance cards and notices (SR-22's); making copies of insurance documents; and taking loss information. Insurance producers are also prohibited from charging fees for purchasing new computer equipment, extending business hours, adding new sales facilities, or other overhead expenses associated with the solicitation or procurement of insurance products or the servicing of existing insurance policyholders.

The prohibition in this section shall not apply to insurance wholesale intermediaries; however, insurance wholesale intermediaries must advise the insurance producer, as the representative of the consumer, in writing, that "the cost of the insurance coverage provided herein includes a fee to a wholesale intermediary in addition to the premium charges." For the purpose of this regulation a wholesale intermediary is a person or organization that deals directly with a licensed retail producer and not with a consumer.

Insurance producers may not condition the placement of insurance upon the provision of other services for which fees may be charged.

#### B. Fees Allowed

Insurance producers may charge fees for specific services which are beyond the scope of services pertaining to acquiring and/or maintaining specific insurance policies, including, but not necessarily limited to, risk management services, financial planning, investment counseling, qualified retirement plan design or administration, estate planning, third party employee benefit plans, or any other service for which the insurance producer does not receive a commission from an insurance company. Such fees may be charged only under the following circumstances:

1. When the client signs a disclosure statement in advance of the performance of the specific services, which states that the client is under no obligation to purchase any insurance product through the insurance producer in exchange for receiving the specific services. This requirement may be met by including the disclosure language in any disclosure statement required by federal or state securities law.

2. In those cases where it is clear from the outset that no insurance product sale related to the specific services rendered will occur through the insurance producer.

#### C. Maintenance of Records

The insurance producer shall retain a copy of the disclosure statement for not less than three (3) years after completion of services and a copy shall be available to the commissioner upon request.

#### **Section 4      Enforcement**

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines and/or suspension or revocation of an insurance producer's license.

#### **Section 5      Severability**

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision shall not be affected.

#### **Section 6      Effective Date**

The effective date of this regulation is September 1, 2003.

#### **Section 7      History**

Issued As New Regulation Effective June 1, 1994.  
Regulation Amended, Effective September 1, 2003.